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successor by merger to Bank One, NA*

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION**

KENNETH G. HANSEN, an individual, DAVID
RUTTER, an individual, TODD FISHER, an
individual, FIBERTEL, INC., a Utah
corporation, K&D DEVELOPMENT, LC, a
Utah limited liability company, and DOUGLAS
A. SMITH, an individual

Plaintiffs,

vs.

MARC S. JENSON, an individual, MSF
PROPERTIES, LC, a Utah limited liability
company, BANK ONE, NA, a national banking
association, MARK ROBBINS, an individual,
MADTRAX GROUP, LLC, a Utah limited
liability company, SPENCER BRANNAN, an
individual, FIRST WASATCH
DEVELOPMENT, INC., a Nevada
corporation, and DOES 1-50,

Defendants.

**NOTICE OF ALLOCATION OF FAULT
PURSUANT TO UTAH CODE ANN.
§ 78B-5-821**

Case No. 2:04-CV-00867 TS
Honorable Ted Stewart
Magistrate Judge Brooke C. Wells

Defendant JPMorgan Chase Bank, N.A., successor by merger to Bank One, N.A. (“Bank One”), pursuant to Utah Code Ann. § 78B-5-821, hereby provides this notice and a description of the factual and legal basis upon which fault can be allocated to persons or entities not joined as parties to this lawsuit.

The legal basis for allocation of fault to the below persons and entities is Utah Code §§ 78B-5-818 and 78B-5-821.

Bank One hereby requests that a separate special verdict form be submitted to the trier of fact whereby the percentage or portion of fault of the persons or entities not joined as parties to this lawsuit, but identified herein, as well as all Defendants, be apportioned and attributed pursuant to Utah Code Ann. §§ 78B-5-819 and 78B-5-821.

1. David Rutter
c/o Counsel for Plaintiff

Factual Basis: Mr. Rutter conducted due diligence (or conducted inadequate due diligence), evaluated the risk of, and potential return on, the loans to Spencer Brannan and others, and made the decisions to pledge property for loans for the benefit of Marc Jensen and/or MSF Properties, L.C. Mr. Rutter also failed to mitigate damages by not acting either to stop the foreclosure on the pledged property, or to sell the property before the foreclosure.

2. Todd Fisher
c/o Counsel for Plaintiff

Factual Basis: Mr. Fisher conducted due diligence (or conducted inadequate due diligence), evaluated the risk of, and potential return on, the loans to Spencer Brannan and others, and made the decisions to pledge property for loans for the benefit of Marc Jensen and/or

MSF Properties, L.C. Mr. Fisher also failed to mitigate damages by not acting either to stop the foreclosure on the pledged property, or to sell the property before the foreclosure.

3. Fibertel, Inc.
c/o Counsel for Plaintiff

Factual Basis: Fibertel, Inc., acting through its owner and agent Todd Fisher, conducted due diligence (or conducted inadequate due diligence), evaluated the risk of, and potential return on, the loans to Spencer Brannan and others, and made the decisions to pledge property for loans for the benefit of Marc Jensen and/or MSF Properties, L.C. Fibertel, Inc. also failed to mitigate damages by not acting either to stop the foreclosure on the pledged property, or to sell the property before the foreclosure.

4. K & D Development
c/o Counsel for Plaintiff

Factual Basis: K & D Development conducted due diligence (or conducted inadequate due diligence), evaluated the risk of, and potential return on, the loans to Spencer Brannan and others, and made the decisions to pledge property for loans for the benefit of Marc Jensen and/or MSF Properties, L.C. K & D Development also failed to mitigate damages by not acting either to stop the foreclosure on the pledged property, or to sell the property before the foreclosure.

5. Douglas A. Smith
c/o Counsel for Plaintiff

Factual Basis: Mr. Smith conducted due diligence (or conducted inadequate due diligence), evaluated the risk of, and potential return on, the loans to Spencer Brannan and others, and made the decisions to pledge properties for loans for the benefit of Marc Jensen and/or MSF Properties, L.C. Mr. Smith also failed to mitigate damages by not acting either to stop the foreclosure on the pledged properties, or to sell the properties before the foreclosure.

6. Spencer Brannan
6429 South Trophy Court
Gilbert, Arizona 85297
480-840-1663

Employer: Ahwatukee Adult Care
9859 South 46th Street
Mesa, Arizona 85044-5534
480-592-0058

Factual Basis: Mr. Brannan made false and fraudulent representations to Plaintiffs to induce Plaintiffs to pledge properties for loans to him and others.

7. MSF Properties, L.C.
2340 Phyliden Drive
Holladay, Utah 84117
801-277-3095

Factual Basis: MSF conspired to make false and fraudulent representations to Plaintiffs to induce Plaintiffs to pledge properties for loans to Brannan and others to further the fraudulent scheme alleged in the Second Amended Complaint. MSF or Mr. Jenson was a recipient of funds obtained by this scheme.

8. Marc S. Jenson
2046 E. Normandywoods Court
Holladay, Utah 84117
801-277-3095

Believed to be self-employed

Factual Basis: Mr. Jenson conspired to make false and fraudulent representations to Plaintiffs to induce Plaintiffs to pledge properties for loans to Brannan and others to further the fraudulent scheme alleged in the Second Amended Complaint. MSF or Mr. Jenson was a recipient of funds obtained by this scheme.

9. Mark Robbins
1033 Quarry Mountain Way
Park City, UT 84098
cell 801-910-9696

Believed to be self employed

Factual Basis: Mr. Robbins made representations to Bank One to induce Bank One to allegedly issue the letters upon which Plaintiffs allegedly relied. Mr. Robbins also failed to acquire the Mongoose Bicycle Division.

10. MadTrax Group, LLC
Defunct

Factual Basis: MadTrax Group made representations to Bank One to induce Bank One to allegedly issue the letters upon which Plaintiffs allegedly relied. MadTrax also provided inaccurate and misleading financial statements and reports to Plaintiffs. MadTrax failed to acquire the Mongoose Bicycle Division.

11. Stirling Real Estate Investment Trust, Inc.
Unknown

Factual Basis: Stirling Real Estate Investment Trust, Inc. promoted the so called “bank trades” program and induced Plaintiffs to pledge their properties for loans to use in “bank trades”.

12. Uinta Ridge, Inc. aka Uinta Ridge Development, Inc.
Unknown

Factual Basis: Uinta Ridge, Inc. aka Uinta Ridge Development, Inc. was used by Spencer Brannan to add legitimacy to his fraudulent scheme to promote “bank trades”.

13. First Wasatch Development, Inc.
Unknown

Factual Basis: First Wasatch Development, Inc. was used by Spencer Brannan to add legitimacy to his fraudulent scheme to promote “bank trades”.

14. Allen Lucas
763 East 1200 North, Apt. C2
Logan, Utah 84341
435-764-3494

Employer: Unknown

Factual Basis: Allen Lucas was closely involved with Spencer Brannan, attended almost all of the meetings with Plaintiffs, and assisted Brannan in his fraudulent scheme to promote “bank trades”.

15. Barry Daniels
801-475-5560

Employer: Unknown

Factual Basis: Barry Daniels endorsed and encouraged Plaintiffs to invest in the fraudulent “bank trades” and attended meetings promoting the “bank trades”.

16. Dave Smith
801-718-4383

Employer: Unknown

Factual Basis: Dave Smith hosted meetings at which the fraudulent “bank trades” were discussed and promoted and encouraged Plaintiffs to invest in the “bank trades”.

17. Curtis Hall
2137 Oak Forrest Drive
Layton, Utah 84040
801-564-8049

Employer: Unknown

Factual Basis: Curtis Hall endorsed and encouraged Plaintiffs to invest in the fraudulent “bank trades”, held meetings at his home to promote and investigate the “bank trades”, and attended other meetings to promote and investigate the bank trades.

18. Troy Stroud
801-571-3821

Employer: Unknown

Factual Basis: Troy Stroud helped Plaintiff Douglas Smith investigate the fraudulent “bank trades” and make the decision to invest.

19. Kenneth Hansen
30 East 100 South, Suite 100
Salt Lake City, Utah 84111

Employer: Unknown

Factual Basis: Kenneth Hansen endorsed and encouraged Plaintiffs to invest in the fraudulent “bank trades”, including making false representations that Bank One endorsed the program.

20. David Storrs
Unknown

Employer: Unknown

Factual Basis: David Storrs endorsed and encouraged Plaintiffs to invest in the fraudulent “bank trades” and purportedly operated a project in Chile which met the requirement under the fraudulent “bank trades” program for a portion of the profits to go to a humanitarian project.

21. Vern Houst
Unknown

Employer: Unknown

Factual Basis: Vern Houst endorsed and encouraged Plaintiffs to invest in the fraudulent “bank trades” and represented that the had the access and contacts to actually perform a “bank trade”.

22. Richard “Skip” Christensen
c/o Counsel: Robert M. Anderson
VanCott Bagley Cornwall & McCarthy
36 South State Street, #1900
Salt Lake City, Utah 84111-1478

Believed to be self-employed

Factual Basis: Mr. Christensen conspired to make false and fraudulent representations to Plaintiffs to induce Plaintiffs to pledge properties for loans to Brannan and others to further the fraudulent scheme alleged in the Second Amended Complaint.

23. George Lawrence Critchfield
40 North State Street, #3G
Salt Lake City, Utah 84103-2000

Believed to be self-employed

Factual Basis: Mr. Critchfield conspired to make false and fraudulent representations to Plaintiffs to induce Plaintiffs to pledge properties for loans to Brannan and others to further the fraudulent scheme alleged in the Second Amended Complaint.

24. Morris “Morty” Ebeling
11149 Windy Peak Ridge Dr.
Sandy, Utah 84094
801-572-7689

Believed to be self-employed

Factual Basis: Mr. Ebeling made false and fraudulent representations to Plaintiffs concerning bank trades to induce Plaintiffs to pledge properties and for loans to Brannan and others.

25. Cherokee & Walker Investment Company, L.L.C.; Cherokee & Walker Ventures, LLC; and/or Cherokee & Walker LLC
6440 S. Wasatch Blvd., Suite 200
Salt Lake City, Utah 84121

Factual Basis: One or more of these companies was the ultimate recipient of a portion of the funds obtained by this scheme.

26. Arimex Investments, Ltd.
Arianna House
Dunmore Lane
P. O. Box N-3822
Nassau, New Providence, The Bahamas
(0115265) 643799

Factual Basis: Arimex failed to fund the loan which is the subject of the letter dated August 22, 2000, upon which Plaintiffs allegedly relied. Alternatively, Arimex misrepresented its ability to make the loan. Arimex also induced Bank One to issue the August 22, 2000 letter (if Bank One in fact issued the letter).

27. Dr. Alfredo de la Puente
c/o Arimex Investments, Ltd.

Believed to be self-employed

Factual Basis: Dr. de la Puente failed to cause Arimex to make the loan which is the subject of the letter dated August 22, 2000, upon which Plaintiff allegedly relied. Alternatively, Dr. de la Puente misrepresented the ability of Arimex to make the loan. Dr. de la Puente also induced Bank One to issue the August 22, 2000 letter (if Bank One in fact issued the letter).

28. Roger Ellison
Deceased

Factual Basis: Mr. Ellison introduced Arimex and Dr. de la Puente into this transaction, hosted a meeting of Arimex and Dr. de la Puente and others at his office to vouch for them to

Bank One, and induced Bank One to issue the August 22, 2000 letter (if Bank one in fact issued the letter).

29. Unisource Cap LLC
5001 Birch Street
Newport Beach, California 92660
714-898-6684

Factual Basis: Unisource made false representations concerning its financial condition and capabilities which were repeated in documents allegedly issued by Bank One.

30. Zahra Ghods
5001 Birch Street
Newport Beach, California 92660
714-898-6684

Believed to be self employed

Factual Basis: Ms. Ghods made false representations concerning the financial condition and capabilities of Unisource Cap which were repeated in documents allegedly issued by Bank One.

Dated this 6th day of June, 2008.

/s/ John A. Beckstead

John A. Beckstead
H. Douglas Owens
Romaine C. Marshall
HOLLAND & HART LLP

*Attorneys for Defendant JP Morgan Chase Bank,
N.A., successor by merger to Bank One, N.A.*

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of June, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following::

Stephen J. Hill, sjh@pwlaw.com
Robert B. Lochhead, rbl@pwlaw.com
Jenifer L. Tomchak, jlt@pwlaw.com
PARR, WADDOUPS, BROWN, GEE & LOVELESS
185 South State Street, Suite 1300
Salt Lake City, Utah 84111-1537

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10 West Broadway, Suite 400
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MAGLEBY & GREENWOOD, P.C.
170 South Main Street, Suite 350
Salt Lake City, Utah 84101

Andrew G. Deiss, adeiss@joneswaldo.com
Billie J. Siddoway, bsiddoway@joneswaldo.com
JONES, WALDO, HOLBROOK & McDONOUGH
170 South Main Street, Suite 1500
Salt Lake City, Utah 84101

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

Spencer Brannan
6429 South Trophy Ct.
Gilbert, AZ 85297

/s/ John A. Beckstead